

Application No. 10/700,808
Amendment Dated: September 13, 2007
Office Action Mailed: August 10, 2007

REMARKS/ARGUMENTS

The Office Action dated 3/19/2007 rejected claims 1-4, 6-11, 13-18, 20-21, and 25 of the present invention as anticipated under 35 USC § 102(b) in light of U.S. Patent Number 3,534,750 to Kolozsvary (“*Kolozsvary*”). Applicant has withdrawn claim 25.

I. Claim amendments.

Independent claims 1, 2, 9, 14, and 21 have been amended to include the limitation of a first segment having:

“at least one substantially sheet like and substantially rigid structure”

The written description supports this amendment in at least paragraphs [0041] and [0049], as well as at least Figs. 1, 6, 6a and 6b. Applicant notes that a plate is not limited to being flat, but can take a curved form. Applicant believes the claims are now distinguishable over the prior art.

Another limitation to independent claims 1, 2, 9, 14, and 21 is that the arcuate exterior surface is:

“disposed generally opposite of the interior surface and ...”

The written description supports this amendment in at least paragraphs [0041] and [0049], as well as at least Figs. 1, 6, 6a and 6b.

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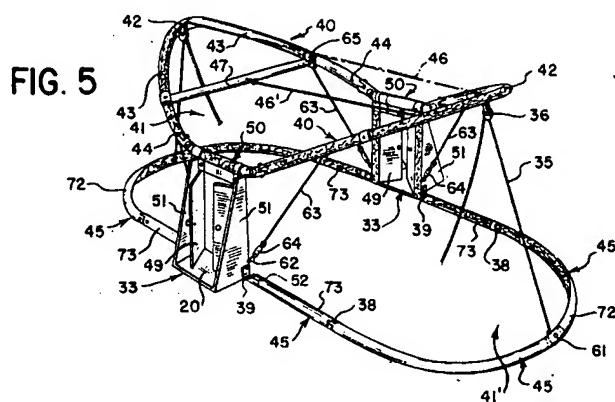
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II. The present invention is not anticipated as the *Kolozsvary* principal arch 40 and the secondary arch member 45 are tubes and not substantially sheets.

The Office Action states:

“... a first segment (43, 47, 58, 50) ...”

As shown in Fig. 5 of the *Kolozsvary*, items 43, 47, 58 and 50 are tubular or tubular like structures: .



The present amendment to independent claims 1, 2, 9, 14, and 21 requires the “first segment” to be substantially a sheet. Since *Kolozsvary* does not reference substantially a sheet for the “first segment”, *Kolozsvary* is not anticipatory prior art.

III. The present invention is not anticipated as the express claim limitation that the “ribs” must attach to the “interior surface” of the “first segment” is not met in the *Kolozsvary* reference.

A patent is rendered invalid for anticipation if there exists one prior art reference that discloses every single element of the claimed invention. *ATD Corp. v. Lydall, Inc.*, 159 F.3d 534, 545 (Fed.Cir.1998); see also 35 U.S.C. § 102. *Kolozsvary* does not disclose every element of the claimed invention.

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- a. The Office Action identifies the “arcuate exterior surface” as the entire outside surface of the principal arch 40 and the secondary arch member 45 in the *Kolozsvary* reference.

The Office Action references *Kolozsvary* and states in pertinent part that:

“...the arcuate exterior surface of the first segment having at least one affixing member (83-84).”

This is shown in *Kolozsvary* Figs. 13 and 14 below.

FIG. 13

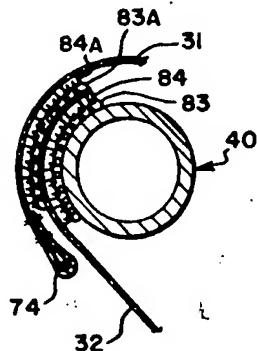
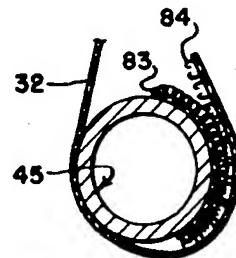


FIG. 14



The affixing members attached to the “arcuate exterior surface”, it necessarily follows that the “arcuate exterior surface” is the outside surface of the principal arch 40 and the secondary arch member 45 in *Kolozsvary*. The *Kolozsvary* written description also supports this position:

“The strip 83 is attached to the entire outer periphery of each principle arch 40.”

Kolozsvary, column 6, starting at line 64 (emphasis added). The entire outer periphery of the arch 40 is what the Office Actions refers to as the “arcuate exterior

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surface.” However, this surface is not “substantially sheet like” as required by the claims of the present application.

b. The Office Action fails to identify an interior surface for the first segment in the *Kolozsvary* reference.

The Office Action makes no mention of what in the *Kolozsvary* reference qualifies as the “interior surface” of the “first segment”.

Logically, it would appear that the “interior surface” would be the interior surface area of the tubes forming the principal arch 40 and the secondary arch member 45. If this is true, then the Office Action fails to identify how any “ribs” are connected to such a surface. Further, the amendment to the independent claims requires the exterior surface to be generally disposed opposed to the interior surface and that the first segment to be substantially sheet like; neither express limitation being met in the *Kolozsvary* reference. The Office Action appears to argue that the inner surface of the tubes forming the principal arch 40 and the secondary arch member 45 would correlate to the inner surface of the present invention. This is not anticipatory.

c. The ribs must connect to the interior surface of the first segment, however the *Kolozsvary* reference does not disclose ribs attached to the “inner surface” of the “first segment.”

The Office Action states that the “first segment” is comprised of items 43, 47, 58 and 50 in *Kolozsvary*. The Office Action states that the “ribs” in *Kolozsvary* are identified as item 51. *Kolozsvary* illustrates a connection between support members 33 to a connector bar 55, and the connector bar 55 to a linkage assembly 50 as on the next page.

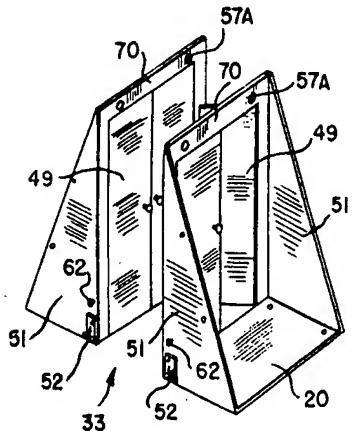
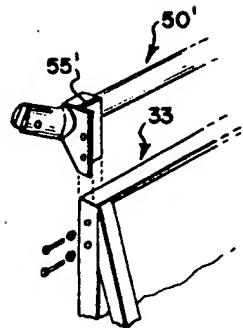


FIG. 8

FIG. 12



Neither Figs. 8 nor 12 identify how “ribs” are attached to either the connector bar 55 or the linkage assembly 50. Also, these figures do not show how the “ribs” are connected to an “inner surface” of the “first segment”. The Office Action further states:

“...ribs (51) disposed between and joined (does not require direct attachment) on the ribs,...”

There is no indication in *Kolozsvary* how the ribs 51 even indirectly connect to the unidentified “inner surface.” The *Kolozsvary* written description is entirely silent on what would constitute an “inner surface” or how any “ribs” are attached to an “inner surface” in any direct or indirect fashion. Further, the surfaces referenced by the Office Action are not “substantially sheet like” nor do they have an arcuate exterior surface that is disposed generally opposite of the interior surface of any sheet like structure.

Independent Claims 1, 2, 9, 14, and 21 are therefore not anticipated.

IV. The Office Action does not structurally define the first segment and therefore Kolozsvary cannot be anticipatory.

The Office Action defines the “first segment” as items 43, 47, 58 and 50 in *Kolozsvary*. Referencing Figs. 5, 6 and 12 below, such a position is clearly not supportable.

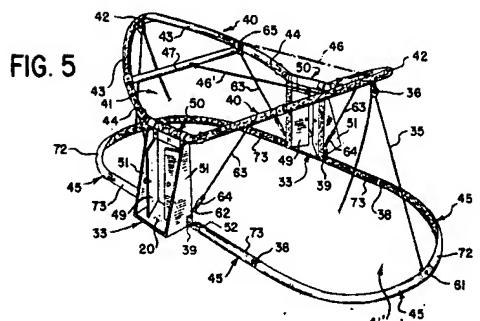


FIG. 5

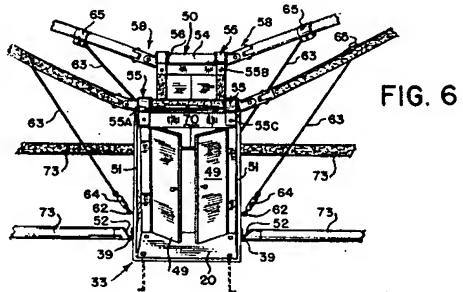


FIG. 6

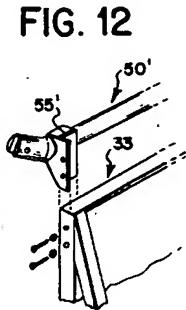


FIG. 12

From the figures it is clear that the linkage assembly 50 is not connected to the swivel joint mechanism 58. Therefore, items 43, 47, 58, and 50 do not identify a single structure that could be presented as a “first segment.”

V. The Kolozsvary reference does not disclose all the limitation of the present invention and therefore is not anticipatory.

"The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The absence from the referenced prior art of any claim limitation

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negates anticipation. *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571 (Fed.Cir. 1986). An earlier invention will not "anticipate" a later invention unless there is "no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention." *Scripps Clinic and Research Found. v. Genentech, Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991). Thus, anticipation requires the presence in a single prior art disclosure of each and every element of a claimed invention. *Electro Med. Sys., S.A. v. Cooper Life Scis., Inc.*, 34 F.3d 1048, 1052 (Fed. Cir. 1994). "A rejection for anticipation under section 102 requires that each and every limitation of the claimed invention be disclosed in a single prior art reference. *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed.Cir.1990). Nothing in *Kolozsvary* relates to an "inner surface" of a "first segment", or to "ribs" connecting to an "inner surface." Further, *Kolozsvary* is silent as to a substantially sheet like first segment. Therefore, *Kolozsvary* is not an anticipatory reference.

VI. The claim limitations were not evaluated in light of a person of ordinary skill in the art.

Claims are given their "broadest reasonable interpretation consistent with the specification". *In re Hyatt*, 211 F.3d 1367, 1372, 54 U.S.P.Q.2d 1664, 1667 (Fed. Cir. 2000). The construction of a term in a claim must be consistent with the meaning that one of ordinary skill in the art would elicit when that term is read "in the context of the entire patent, including the specification." *Phillips v. AWH Corporation*, 415 F.3d at 1313, 75 U.S.P.Q.2d at 1326. Nothing in the Office Action supports that a person of ordinary skill in the art of inflatable spacecraft would interpret the limitations of the present invention to cover the tent structure in *Kolozsvary*.

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VII. Positive limitations must be considered.

While it is true that the claims currently prosecuted resulted from an election in response to a restriction requirement, it is equally true that the claim limitations define the invention.

Claim 2 states:

“..the attachment elements on the ribs cooperating with the attachment elements on the core such that the cover is removably attached to the core.”

Claim 9 states:

“...the attachment elements on the ribs cooperating with the attachment elements on the braces such that the cover is removably attached to the braces.”

Claim 14 states:

“...the attachment elements on the ribs cooperating with the attachment elements on the longerons such that the cover is removably attached to the longerons.”

Claim 21 states:

“...the ribs having a plurality of attachment elements for cooperating with the attachment elements on the core.”

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Nothing in *Kolozsvary* discloses a “cover” that is removably attached to a “core” or to “longerons” or to “braces.” Also, *Kolozsvary* does not disclose any cooperation between attachment elements that are on a “core.” “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The absence from the referenced prior art of any claim limitation negates anticipation. *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571 (Fed.Cir. 1986). An election cannot negate established Federal Circuit precedent.

VIII. The dependent claims are not anticipated.

The absence from the referenced prior art of any claim limitation negates anticipation. *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571 (Fed.Cir. 1986). The dependent claims contain limitations not found in the *Kolozsvary* reference.

Claim 3 states:

“The cover of claim 2 wherein the core further comprises at least two longerons and the cover has a width and each longerons having an outer edge and the width of the cover is substantially the distance between the outer edges of the longerons and the cover fits over the longerons.”

Nothing in *Kolozsvary* addresses limitations on the width of a “cover” in relation to an inflatable spacecraft longeron.

Claim 4 states:

“The cover of claim 2 wherein the second segment is substantially rigid.”

Kolozsvary does not address a substantially rigid “second segment.”

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Claim 5 states:

“The core of claim 2 further comprising: a first affixing member disposed on the arcuate surface of the first segment; an inflatable shell attached to the core of the inflatable modular structure and the inflatable shell having an interior surface, the interior surface substantially enclosing the cover and core, and a second affixing member disposed on the interior surface of the inflatable shell; and the first affixing member and the second affixing member cooperating such that the cover is removably affixed to the interior surface of the inflatable shell.”

The *Kolozsvary* reference does not address the core limitations of claim 5.

Claim 6 states:

“The cover of claim 2 wherein the cover is substantially hollow. “

Kolozsvary does not address a substantially hollow cover as disclosed in the present invention.

Claim 7 states:

“The cover of claim 2 wherein the first segment has an access opening. “

What the Office Action references as a “first segment” in *Kolozsvary* is basically a closed tube. Such a structure does not have the access opening as defined in the written description of the present invention.

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Claim 8 states:

“The cover of claim 2 wherein the second segment has an access opening.”

What the Office Action references as a “second segment” in *Kolozsvary* is basically a floor. Such a structure does not have the access opening as defined in the written description of the present invention.

Claim 10 states:

“The cover of claim 9 wherein the core further comprises at least two longerons and the cover has a width and each longeron having an outer edge and the width of the cover is substantially the distance between the outer edges of the longerons and the cover fits over the longerons.”

Nothing in *Kolozsvary* describes the width of a “cover” in relation to longerons.

Claim 11 states:

“The cover of claim 9 wherein the second segment is substantially rigid.”

Kolozsvary does not disclose a substantially rigid “second segment.”

Claim 13 states:

“The cover of claim 9 wherein the cover is substantially hollow.”

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Claim 15 states:

“The cover of claim 14 wherein the cover has a width and each longeron having an outer edge and the width of the cover is substantially the distance between the outer edges of the longerons.”

Again, the *Kolozsvary* reference does address restricting the width of the cover to the distance between longerons.

Claim 16 states:

“The cover of claim 14 wherein the second segment is substantially rigid.”

As discussed supra, *Kolozsvary* does not disclose a substantially rigid “second segment.”

Claim 17 states:

“The cover of claim 14 wherein the first segment has an access opening.”

Kolozsvary does not address an access opening in the “first segment.” The Office Action identifies the “first segment” as basically a tube. There is no disclosure in the cited art that qualifies as disclosing an access opening as taught by the present invention.

Claim 18 states:

“The cover of claim 14 wherein the second segment has an access opening.”

As discussed above, *Kolozsvary* does not disclose an access opening the floor.

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Claim 20 states:

"The cover of claim 14 wherein the cover is substantially hollow."

Kolozsvary fails to identify a cover as would be understood by a person of skill in the art of inflatable space structures. Thus, there is no disclosure of a substantially hollow "cover."

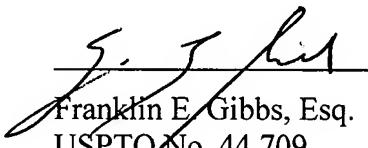
IX. Conclusion

Applicant contends the anticipation rejection has been overcome and further that the application is now in a condition for allowance. Applicant respectfully requests that at timely Notice of Allowance be issued in this case.

If the Applicant's attorney can be of any further assistance, please call the undersigned at the number provided.

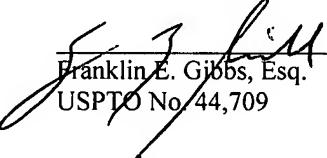
Respectfully submitted,

Date: 10-23-07


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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as required for first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on: 10 - 23, 2007.


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